23/11/07

[15]

HIGH COURT OF CHHATTISGARH AT BILASPUR
DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag., CJ.
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH J.

Writ Appeal No.285 of 2007

Appellant
Respondent No.1 — Chhattisgarh Board of Secondary Education Raipur (Chhattisgarh)

Versus

Respondents

1. Shivnath Lahre, son of Ramnath Lahre, Aged about 30 years, resident of Village Mudpar, Post Rashauta, Tashil Pamgarh District Janjgir - Champa (Chhattisgarh)

2. Dineshwar Madhukar, son of Budhram Madhukar, aged about 19 years, resident of Village and Post Sasaha, Tahsil Pamgarh, District Janjgir - Champa (Chhattisgarh)

PETITIONERS

3. Principal, Government Higher Secondary School, Sasaha, District Janjgir - Champa (Chhattisgarh)

4. Shri IP Patel, Center Head, Government Higher Secondary School Tanoud, District Janjgir - Champa (Chhattisgarh)

5. Sub-Divisional Magistrate, Pamgarh, District Janjgir - Champa (Chhattisgarh)

6. Block Education Officer, Pamgarh, District Janjgir - Champa (Chhattisgarh)

RESPONDENTS NO.2 TO 5.

Appeal under Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act

Present : Shri HB Agrawal, Senior Advocate with Ms Sangita Mishra, counsel for the appellant.
Shri GD Vaswani, Government Advocate for the State.

Oral order
(Passed on 13th November, 2007)

The following order of the Court was passed by Hon'ble Jagdish Bhalla, Ag C.J:

This writ appeal arises out of judgment of learned Single Judge dated 3rd October, 2007, wherein a direction has been issued to hold fresh examination at the earliest as the result of the examination for Higher Secondary School Certificate held at the centre i.e. Higher Secondary School, Sasaha, Janjgir was cancelled on account of mass copying. Very mild direction has been issued by learned Single Judge for holding fresh examination for the above centre, at the earliest.

Learned counsel appearing for the appellant submits that the Court has become *functus officio* and accordingly, the direction contained in the judgment could not have been issued. However, learned senior counsel for the appellant failed to substantiate how the Court has become *functus officio*. We are of the considered opinion that to no stretch of imagination, the Court can become *functus officio*. Accordingly, no interference is warranted in the impugned order and the appeal is therefore dismissed.

Sd/-
Acting Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

padma